

PLAINTIFF/PETITIONER/MOVANT'S NAME

HUSSAIN D. VAHID ALLAH

PRISON NUMBER

FILED

08 JUN -6 PM 2:03

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PLACE OF CONFINEMENT

7505 GAYNEWOOD way SD CA 92139 ^{BY: fel DEPUTY}

ADDRESS

**United States District Court
Southern District Of California**

HUSSAIN D. VAHID ALLAH

Plaintiff/Petitioner/Movant

v.

Center for medicare & medicaid
Service-CMS

Defendant/Respondent

Civil No. 08 CV 843 L JMA

(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

**MOTION AND DECLARATION UNDER
PENALTY OF PERJURY IN SUPPORT
OF MOTION TO PROCEED IN FORMA
PAUPERIS**

7500 Security BLVD BLVD Baltimore MD
21244-1850

I, _____
declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

In further support of this application, I answer the following question under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☒ No (If "No" go to question 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? ☐ Yes ☒ No

Do you receive any payment from the institution? ☐ Yes ☒ No

[Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

CR

2. Are you currently employed? ☐ Yes ☒ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. _____

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer. UNIVERSITY HOSPITAL

Tampa, Florida \$4 For hrs part time

3. In the past twelve months have you received any money from any of the following sources?

- | | |
|---|---|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, royalties interest or dividends | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| e. Social Security, disability or other welfare | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| f. Gifts or inheritances | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| g. Spousal or child support | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| h. Any other sources | <input type="checkbox"/> Yes <input type="checkbox"/> No |

If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month. disability \$430

Social S. \$400

4. Do you have any checking account(s)? ☒ Yes ☐ No

a. Name(s) and address(es) of bank(s): Washington Mutual Bank

b. Present balance in account(s): I own them 3 or 4 times they give me notice

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☐ No

a. Name(s) and address(es) of bank(s): _____

b. Present balance in account(s): _____

6. Do you own an automobile or other motor vehicle? ☒ Yes ☐ No

a. Make: Ford Year: _____ Model: Ford

b. Is it financed? ☐ Yes ☒ No

c. If so, what is the amount owed? _____

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?
☒ Yes ☐ No

If "Yes" describe the property and state its value. I have one House has LIFT from
government & government State pay my tax

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. 0

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable):

I do have Many Colchiff e gene

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]): 0

12. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses.

I received Social S. & disability

I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.

5/9/2008

DATE

6/6/2008

S.D. Allen

SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant _____
(NAME OF INMATE)

(INMATE'S CDC NUMBER)

has the sum of \$ _____ on account to his/her credit at _____

(NAME OF INSTITUTION)

I further certify that the applicant has the following securities _____

to his/her credit according to the records of the aforementioned institution. I further certify that **during**

the past six months the applicant's *average monthly balance* was \$ _____

and the *average monthly deposits* to the applicant's account was \$ _____

ALL PRISONERS *MUST* ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

DATE

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

OFFICER'S FULL NAME (PRINTED)

OFFICER'S TITLE/RANK

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, _____, request and authorize the agency holding me in
(Name of Prisoner/ CDC No.)
 custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☐ \$350 (civil complaint) or ☐ \$5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

 DATE

 SIGNATURE OF PRISONER



Hussain D. Vahidallah Ph.D., FICPP
7505 Gayneswood way San Diego CA 92139
Tel & Fax (619) 479-4212

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Hussain D. Vahidallah)	Case No. 08 CV 0843 L JMA
)	
Plaintiff,)	MOTION FOR COMPLETE IN FORMA PAUPERIS
)	("IFP").
vs.)	
)	
Center for Medicare and Medicaid Service-CMS)	
)	
7500 Security Blvd Baltimore MD)	
)	
21244-1850)	
)	
(410) 786-0727)	
)	
Defendant)	

To the United States District Court, of Southern California, comes now, Hussain D.Vahidallah, called "plaintiff."

And Center for Medicare called Defendant .

With all my respects to the Federal Court Plaintiff Hussain D. Vahidallah alleges: In forma pauperis pursuant to 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 117(9th Cir.1999). Plaintiff is a low-income disabled individual I am qualified for the Zero % Deferred.

I declare under penalty of perjury that the above is true and correct.

Hussain D. Vahidallah Ph.D., FICPP Date June 6, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HUSSAIN D. VAHIDALLAH,

Plaintiff,

vs.

CENTER FOR MEDICARE AND
MEDICAID SERVICE - CMS,

Defendant.

CASE NO. 08cv843-L (JMA)

**ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED *IN FORMA*
*PAUPERIS***

Plaintiff Hussain D. Vahidallah filed a complaint claiming that Defendant denied him Medicare benefits in violation of his rights under the Americans with Disabilities Act. Plaintiff did not pay the \$350 filing fee. All parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). Plaintiff's initial motion to proceed *in forma pauperis* ("IFP") was denied by order filed May 12, 2008, because his declaration in support of the motion was largely incomplete. The complaint was dismissed without prejudice and Plaintiff was granted 60 days' leave to pay the requisite filing fee or submit the required information regarding his financial status. On May 29, 2008, Plaintiff

1 filed a document purporting to be his renewed IFP motion captioned "Proceed *in forma*
2 *pauperis* Pursuant to 28 U.S.C. § 1915(a)." For the reasons which follow, Plaintiff's
3 motion to proceed IFP is **DENIED**.

4 Plaintiff's renewed IFP motion appears to be his amended complaint. Attached to it
5 are copies of the caption pages of two orders from cases Plaintiff had previously filed in
6 this district. The court notes that in *Vahidallah v. San Diego Housing Commission et al.*,
7 case no. 07cv371-JM (CAB), Plaintiff's IFP motion was initially denied because, as in the
8 instant case, Plaintiff failed to provide the requisite information regarding his financial
9 status. (See Order Denying Motion to Proceed *in Forma Pauperis*, filed Mar. 5, 2007.) His
10 renewed motion was granted on May 14, 2007, after he provided additional financial
11 information. In *Vahidallah v. Professional Examination Service*, case no. 03cv1800-J
12 (AJB), Plaintiff's IFP motion was granted on October 29, 2003.

13 Prior orders granting Plaintiff IFP status are not relevant for purposes of his present
14 motion, particularly because the most recent order is more than a year old. Furthermore,
15 none of the documents attached to Plaintiff's renewed motion provide the financial
16 information which was missing from Plaintiff's initial motion.

17 Accordingly, Plaintiff's renewed IFP motion is **DENIED** and the complaint is
18 **DISMISSED** without prejudice. Plaintiff is granted 60 days' leave to pay the filing fee
19 required to maintain this action pursuant to 28 U.S.C. § 1914, or to re-file a motion to
20 proceed IFP. If Plaintiff chooses to re-file an IFP motion, the motion must be filed on the
21 form captioned as Motion and Declaration Under Penalty of Perjury in Support of Motion
22 to Proceed *in Forma Pauperis*, which can be obtained from the office of the Clerk of
23 Court.¹ The form must provide all of the information requested therein. Furthermore, IF

24 /////

25 /////

26 /////


27

28 ¹ This is the same form Plaintiff used for his initial IFP motion, filed May 9, 2008 in this case.

1 **PLAINTIFF CHOOSES TO RE-FILE HIS IFP MOTION, HE MUST ATTACH A**
2 **COPY OF THIS ORDER.**

3 **IT IS SO ORDERED.**
4

5 DATED: May 30, 2008

6 
7 M. James Lorenz
8 United States District Court Judge

9 COPY TO:

10 HON. JAN M. ADLER
11 UNITED STATES MAGISTRATE JUDGE

12 ALL PARTIES/COUNSEL
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